

United States District Court
for the
Southern District of New York

U.S. BANK NATIONAL ASSOCIATION,)	
NOT IN ITS INDIVIDUAL CAPACITY)	
BUT SOLELY AS TRUSTEE FOR THE)	
RMAC TRUST, SERIES 2016-CTT)	
)	Civil Action No. 18-cv-6906
Plaintiff)	
v.)	ORDER VACATING DEFAULT
)	JUDGMENT OF FORECLOSURE
)	AND SALE, VOLUNTARILY
)	DISMISSING ACTION, AND
)	CANCELLING THE NOTICE OF
)	PENDENCY OF ACTION
)	
)	
DEBORAH M. ESTEVEZ AKA)	
DEBORAH ESTEVEZ, CAPITAL ONE)	
BANK (USA), N.A.)	
)	
Defendant(s))	

Before the Court is a motion to voluntarily dismiss the action pursuant to Fed. R. Civ. P. §41(a)(2), vacate the Default Judgment of Foreclosure and Sale pursuant to Fed R. Civ. P. §60(b), and cancel the Notice of Pendency of Action pursuant to N.Y. C.P.L.R. §6514(a). The action was commenced by filing of the Summons and Complaint on August 1, 2018, copies of which were served on the Defendants. The Defendants failed to answer, appear or motion with respect to the Complaint and defaulted. On November 12, 2019, the Court granted the Plaintiff default judgment pursuant to Fed. R. Civ. P. §55(b)(2) and a Judgment of Foreclosure and Sale pursuant to N.Y. R.P.A.P.L. §1351 and §1354. Thereafter, the Plaintiff entered into a loan modification agreement with the Defendant, which settled the case and nullified the Judgment of Foreclosure and Sale. On these grounds, it is hereby:

ORDERED, ADJUDGED AND DECREED, the Plaintiff's motion is granted; and it is

further

ORDERED, ADJUDGED AND DECREED, the Default Judgment of Foreclosure and Sale entered on November 12, 2019 is vacated pursuant to Fed. R. Civ. P. §60(b); and it is further

ORDERED, ADJUDGED, AND DECREED, the Referee who was appointed to sell the property at public auction pursuant to the Judgment of Foreclosure and Sale, Alan L. Joseph, Esq., is discharged and relieved of any and all obligations and requirements thereunder; and it is further

ORDERED, ADJUDGED, AND DECREED, that pursuant to N.Y. C.P.L.R. § 6514(a), the County Clerk of Chemung County is directed, upon payment of proper fees, if any, to cancel and discharge a certain Notice of Pendency filed in this action on the August 3, 2018 and in the Office of the Clerk of the United State District Court for the Southern District of New York, and any other filing against the property known as 421 Watts Lane, Maybrook, NY 12543, and said Clerk is hereby directed to enter upon the margin of the record of the same a Notice of Cancellation referring to this Order.

SO ORDERED:



**U.S. District Judge Cathy Seibel
United States District Court for the
Southern District of New York**

7/20/21

The Clerk of Court is respectfully directed to terminate Doc. 50.